

**AGREEMENT BETWEEN
CITY/COUNTY ASSOCIATION OF GOVERNMENTS AND PENINSULA
TRAFFIC CONGESTION RELIEF ALLIANCE FOR THE COUNTYWIDE
VOLUNTARY TRIP REDUCTION PROGRAM**

This Agreement, effective **July 1 2012**, by and between CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY, a joint powers agency formed for the purpose of preparation, adoption and monitoring of a variety of county-wide state-mandated plans, hereinafter called "C/CAG" and Peninsula Traffic Congestion Relief Alliance, hereinafter called "the Alliance."

W I T N E S S E T H

WHEREAS, it is necessary and desirable that the Alliance be engaged by C/CAG for the purpose of performing services hereinafter described:

NOW, THEREFORE, IT IS HEREBY AGREED by the parties as follows:

1. **Services to be provided by the Alliance.** In consideration of the payments hereinafter set forth, the Alliance shall provide services in accordance with the terms, conditions and specifications set forth herein and in Exhibit A attached hereto and by this reference made a part hereof.
2. **Payments.** In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit A, C/CAG shall make payment to the Alliance as follows. Alliance shall submit to C/CAG monthly invoices in a total contract amount not to exceed five hundred ten thousand dollars (\$510,000). Payments shall be made within 30 days after receipt and approval of the monthly invoice from the Alliance. In the event that C/CAG makes any advance payments, the Alliance agrees to refund any amounts in excess of the amount owed by C/CAG at the time of termination of this Agreement.
3. **Relationship of the Parties.** It is understood that this is an Agreement by and between Independent Contractor(s) and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of Independent Contractor.
4. **Non-Assignability.** The Alliance shall not assign this Agreement or any portion thereof to a third party without the prior written consent of C/CAG, and any attempted assignment without such prior written consent in violation of this Section automatically shall terminate this Agreement.
5. **Contract Term.** This Agreement shall be in effect as of July 1, 2012 and shall terminate on June 30, 2013; provided, however, C/CAG may terminate this Agreement at any time for any reason by providing 30 days' notice to the Alliance. Termination to be effective on the date specified in the notice. In the event of termination under this paragraph, the Alliance shall be paid for all services provided to the date of termination.

6. **Hold Harmless/Indemnity.** The Alliance shall indemnify and save harmless C/CAG, its officers, directors, employees, and servants from all claims, suits, damages or actions of every name, kind, and description, arising from the Alliance's performance, or failure to perform under this Agreement.

(a) The duty of the Alliance to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

(b) The obligations set forth in this section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement."

7. **Insurance.** The Alliance or its subcontractors performing the services on behalf of the Alliance shall not commence work under this Agreement until all Insurance required under this section has been obtained and such insurance has been approved by the C/CAG Staff. The Alliance shall furnish the C/CAG Staff with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending the Alliance's coverage to include the contractual liability assumed by the Alliance pursuant to this Agreement. These Certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to C/CAG of any pending change in the limits of liability or of non-renewal, cancellation, or modification of the policy.

Workers' Compensation and Employer Liability Insurance: the Alliance shall have in effect, during the entire life of this Agreement, Workers' Compensation and Employer Liability Insurance providing full statutory coverage.

Liability Insurance. The Alliance shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect the Alliance, its employees, officers and agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all operations under this Agreement, whether such operations be by the Alliance or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than \$1,000,000 unless another amount is specified below and shows approval by C/CAG Staff.

Required insurance shall include:

	Required Amount	Approval by C/CAG Staff if under \$ 1,000,000
a. Comprehensive General Liability	\$ 1,000,000	_____
b. Workers' Compensation	\$ Statutory	_____

C/CAG and its officers, agents, employees and servants shall be named as additional

insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to C/CAG, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if C/CAG, or its officers and employees have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, C/CAG, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

8. **Non-discrimination.** The Alliance and its subcontractors performing the services on behalf of the Alliance shall not discriminate or permit discrimination against any person or group of persons on the basis of race, color, religion, national origin or ancestry, age, sex, sexual orientation, marital status, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status, or in any manner prohibited by federal, state or local laws.
9. **Accessibility of Services to Disabled Persons.** The Alliance, not C/CAG, shall be responsible for compliance with all applicable requirements regarding services to disabled persons, including any requirements of Section 504 of the Rehabilitation Act of 1973.
10. **Substitutions.** If particular people are identified in Exhibit A as working on this Agreement, the Alliance will not assign others to work in their place without written permission from C/CAG. Any substitution shall be with a person of commensurate experience and knowledge.
11. **Sole Property of C/CAG.** As between C/CAG and the Alliance any system or documents developed, produced or provided under this Agreement shall become the sole property of C/CAG.
12. **Access to Records.** C/CAG, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Alliance which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

The Alliance shall maintain all required records for three years after C/CAG makes final payments and all other pending matters are closed.
13. **Merger Clause.** This Agreement, including Exhibit A attached hereto and incorporated herein by reference, constitutes the sole agreement of the parties hereto with regard to the matters covered in this Agreement. Any prior agreement, promises, negotiations or representations between the parties not expressly stated in this document are not binding.
14. **Governing Law.** This Agreement shall be governed by the laws of the State of

California and any suit or action initiated by either party shall be brought in the County of San Mateo, California.

IN WITNESS WHEREOF, the parties hereto have affixed their hands to this agreement for the Countywide Voluntary Trip Reduction Program on the day and year as indicated below.

Peninsula Traffic Congestion Relief Alliance

By _____
Date _____

Peninsula Traffic Congestion Relief Alliance Legal Counsel

By _____

City/County Association of Governments (C/CAG)

By _____
Bob Grassilli
C/CAG Chair
Date _____

C/CAG Legal Counsel

By _____
C/CAG Legal Counsel

Exhibit A

**DRAFT Scope of Work (FINAL scope to be incorporated after
Alliance Board adoption on June 21, 2012)**

FY 2012/2013